

# **ATTACHMENT A**

**From:** [D. Brandon Trice](#)  
**To:** [Poscablo, Christine \(USANYS\)](#); [Dror Ladin](#); [Maximilian Crema](#); [Harned, Christian \(LAW\)](#); [Frank, Andrew](#); [Roberta Kaplan](#); [Amy Cassidy](#); [Morgan, Elizabeth](#); [ch04374@recap.email](#); [efile](#); [Mariana Lo](#); [Elizabeth Knauer](#); [nduncan@sprlaw.com](#); [jnelson](#); [Mark Chertok](#); [Taylor, Nathan \(Law\)](#); [Dane Warren](#); [Docketing](#); [Reo, Chris \(Law\)](#); [Wagner, Monica](#)  
**Cc:** [Farber, David \(USANYS\)](#); [Tarczynska, Dominika \(USANYS\)](#); [Elliott, Stephen M. \(CIV\)](#); [Bruns, Michael \(CIV\)](#)  
**Subject:** RE: [EXTERNAL] RE: Activity in Case 1:25-cv-01413-LJL Metropolitan Transportation Authority et al v. Duffy et al Letter  
**Date:** Thursday, May 1, 2025 3:37:52 PM

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Thanks Christine. Unfortunately, as noted, we are very limited on time, so we intend to submit a letter on our own behalf today. We are happy to indicate that we understand Defendants will be submitting a response.

Thanks,

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**From:** Poscablo, Christine (USANYS) <Christine.Poscablo@usdoj.gov>  
**Sent:** Thursday, May 1, 2025 3:33 PM  
**To:** D. Brandon Trice <btrice@kaplanmartin.com>; Dror Ladin <dladin@earthjustice.org>; Maximilian Crema <mcrema@kaplanmartin.com>; Harned, Christian (LAW) <chharned@law.nyc.gov>; Frank, Andrew <Andrew.Frank@ag.ny.gov>; Roberta Kaplan <RKaplan@kaplanmartin.com>; Amy Cassidy <acassidy@sprlaw.com>; Morgan, Elizabeth <Elizabeth.Morgan@ag.ny.gov>; ch04374@recap.email; efile <efile@earthjustice.org>; Mariana Lo <mlo@earthjustice.org>; Elizabeth Knauer <eknauer@sprlaw.com>; nduncan@sprlaw.com; jnelson <jnelson@sprlaw.com>; Mark Chertok <mchertok@sprlaw.com>; Taylor, Nathan (Law) <ntaylor@law.nyc.gov>; Dane Warren <dwarren@sprlaw.com>; Docketing <docketing@kaplanmartin.com>; Reo, Chris (Law) <creo@law.nyc.gov>; Wagner, Monica <Monica.Wagner@ag.ny.gov>  
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**Subject:** Re: [EXTERNAL] RE: Activity in Case 1:25-cv-01413-LJL Metropolitan Transportation Authority et al v. Duffy et al Letter

**EXTERNAL MESSAGE:** Use caution when opening attachments, clicking links or responding.

Brandon,

Defendants will not agree to Plaintiffs' request. It is unclear what Plaintiffs would seek to enjoin at this juncture, given that the FHWA has not yet made the requisite determination to initiate compliance measures. In any event, we can insert our respective positions in a joint letter to the Court. Please send around a draft.

Thank you.

Christine

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**From:** D. Brandon Trice <[btrice@kaplanmartin.com](mailto:btrice@kaplanmartin.com)>

**Sent:** Thursday, May 1, 2025 12:37:28 PM

**To:** Poscablo, Christine (USANYS) <[Christine.Poscablo@usdoj.gov](mailto:Christine.Poscablo@usdoj.gov)>; Dror Ladin <[dladin@earthjustice.org](mailto:dladin@earthjustice.org)>; Maximilian Crema <[mcrema@kaplanmartin.com](mailto:mcrema@kaplanmartin.com)>; Harned, Christian (LAW) <[chharned@law.nyc.gov](mailto:chharned@law.nyc.gov)>; Frank, Andrew <[Andrew.Frank@ag.ny.gov](mailto:Andrew.Frank@ag.ny.gov)>; Roberta Kaplan <[RKaplan@kaplanmartin.com](mailto:RKaplan@kaplanmartin.com)>; Amy Cassidy <[acassidy@sprlaw.com](mailto:acassidy@sprlaw.com)>; Morgan, Elizabeth <[Elizabeth.Morgan@ag.ny.gov](mailto:Elizabeth.Morgan@ag.ny.gov)>; [ch04374@recap.email](mailto:ch04374@recap.email) <[ch04374@recap.email](mailto:ch04374@recap.email)>; efile <[efile@earthjustice.org](mailto:efile@earthjustice.org)>; Mariana Lo <[mlo@earthjustice.org](mailto:mlo@earthjustice.org)>; Elizabeth Knauer <[eknauer@sprlaw.com](mailto:eknauer@sprlaw.com)>; [nduncan@sprlaw.com](mailto:nduncan@sprlaw.com) <[nduncan@sprlaw.com](mailto:nduncan@sprlaw.com)>; jnelson <[jnelson@sprlaw.com](mailto:jnelson@sprlaw.com)>; Mark Chertok <[mchertok@sprlaw.com](mailto:mchertok@sprlaw.com)>; Taylor, Nathan (Law) <[ntaylor@law.nyc.gov](mailto:ntaylor@law.nyc.gov)>; Dane Warren <[dwarren@sprlaw.com](mailto:dwarren@sprlaw.com)>; Docketing <[docketing@kaplanmartin.com](mailto:docketing@kaplanmartin.com)>; Reo, Chris (Law) <[creo@law.nyc.gov](mailto:creo@law.nyc.gov)>; Wagner, Monica <[Monica.Wagner@ag.ny.gov](mailto:Monica.Wagner@ag.ny.gov)>

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**Subject:** Re: [EXTERNAL] RE: Activity in Case 1:25-cv-01413-LJL Metropolitan Transportation Authority et al v. Duffy et al Letter

Christine,

As you note below, Secretary Duffy's April 21 letter does not claim to rescind the government's purported termination of the VPPP agreement. He states: "On February 19, 2025, I terminated that agreement." And he has now threatened that various means of enforcement of that termination will occur "on or after May 28, 2025." The Secretary's threats to take broad retaliatory actions as a result of Plaintiffs' refusal to comply with his unlawful termination of the VPPP Agreement present a defined controversy that the parties are clearly capable of briefing now, and the point of our proposal is to avoid a situation where the parties are briefing, and the court is dealing with, an emergency TRO if the government takes the action it has threatened.

Again, if the government will represent that it will not take any enforcement action pending a final determination of Plaintiffs' challenge to the purported termination, then there is no need to brief a preliminary injunction now. Alternatively, we are amenable to a stay of enforcement